

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

CARFAX, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
PRIMERITUS FINANCIAL SERVICES, INC.,	)	Civil Action No. 1:19-cv-1375
ROQUEMORE HOLDINGS LLC D/B/A	)	(RDA/IDD)
ROQUEMORE & ROQUEMORE,	)	
RENAISSANCE RECOVERY SOLUTIONS,	)	
AND USA RECOVERY HOLDINGS, INC.,	)	
	)	
Defendants.	)	

**DEFENDANTS' MOTION TO DISMISS FIRST AMENDED COMPLAINT**  
**OR FOR TRANSFER OF VENUE**

Defendants, Primeritus Financial Services, Inc., Roquemore Holdings LLC d/b/a Roquemore & Roquemore, Renaissance Recovery Solutions, and USA Recovery Holdings, Inc., respectfully submit this brief in support of their motion: (a) pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss this action against all Defendants for failure to state claims based upon (1) the Computer Fraud and Abuse Act ("CFAA"), (2) breach of contract at common law and under the Virginia Uniform Computer Information Transactions Act ("UCITA"), (3) the Virginia Computer Crimes Act ("VCCA"), (4) unjust enrichment, and (5) trespass to chattels: and (b) pursuant to Fed. R. Civ. P. 12(b)(4), 12(b)(5) to dismiss this action against USA Recovery Holdings, Inc. for insufficient process and insufficient service of process; or (c) in the alternative, pursuant to 28 U.S.C. § 1404(a) for transfer of venue to the Middle District of Tennessee.

As grounds for this motion, Defendants rely upon the Declaration of Wayne Thomas Acklen Jr. attached hereto as Exhibit A and the following six numbered exhibits attached thereto, which may be considered on this motion because they are integral to Plaintiff's claims:<sup>1</sup>

1. January 22, 2019 cease and desist letter from Plaintiff to Defendants;
2. February 19, 2019 response letter from Defendants to Plaintiff;
3. October 2017 Carfax Consumer Terms of Use;
4. November 6, 2019 Carfax Press Release, "CARFAX Files Another Lawsuit To Protect Its Data From Theft";
5. January 31, 2013 CyrusOne Press Release, "CARFAX Selects Global Data Center Services Provider CyrusOne to House 11 Billion Vehicle History Records"; and
6. July 6, 2016 CyrusOne Case Study, "CARFAX Selects Data Center for Web Hosting and Redundancy – Enterprise Deploys New IT Footprint in Data Centers Interconnected from Coast-to-Coast."

As further grounds for this motion, Defendants rely on their supporting brief filed herewith in accordance with Local Civil Rule 7(F)(1).

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<sup>1</sup> See *Sec'y of State for Defence v. Trimble Navigation Ltd.*, 484 F.3d 700, 705 (4th Cir. 2016) (stating that courts may consider "[documents] attached to the motion to dismiss, so long as they are integral to the complaint and authentic"); *Phillips v. LCI Int'l, Inc.*, 190 F.3d 609, 618 (4th Cir. 1999) (considering article not attached to complaint where it was attached to motion to dismiss "because it was integral to and explicitly relied on in the complaint"). This declaration was originally filed in support of Defendants' first motion to dismiss (ECF No. 10-1).

Dated: May 26, 2019

Respectfully Submitted,

/s/ Andrew J. Narod

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document is being served by ECF on the following counsel of record on May 26, 2019:

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/s/ Andrew J. Narod

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